

Unrelated income; museum operating dining room, cafeteria, and snack bar. The operation of a dining room, cafeteria, and snack bar by an exempt art museum for use by the museum staff, employees, and members of the public visiting the museum does not constitute an unrelated trade or business activity.

The Internal Revenue Service has been asked whether the operation of eating facilities by a museum in the manner described below is unrelated trade or business within the meaning of section 513 of the Internal Revenue Code of 1954.

The organization, exempt under section 501(c)(3) of the Code, is organized and operated as an art museum. Its facilities include a dining room, cafeteria, and snack bar. The eating facilities are open to the museum staff, employees, and members of the public visiting the museum and are of a size commensurate with accommodation of these special groups of patrons. The facilities are accessible from the museum's galleries and other public areas but not directly accessible from the street. The patronage of the eating facilities by the general public is not directly or indirectly solicited nor are the facilities contemplated or designed to serve as a public restaurant but merely to serve the exempt purposes of the museum. Profits, if any, are dedicated to the furtherance of the purposes for which the museum is organized and operated.

Section 513 of the Code defines 'unrelated trade or business' as any trade or business, the conduct of which is not substantially related (aside from the need of an organization for income or funds or the use it makes of the profits derived) to the exercise or performance by an organization of its exempt functions.

Section 1.513-1(d)(2) of the Income Tax Regulations provides that a trade or business is 'substantially related' only if the production or distribution of the goods or the performance of the services from which the gross income is derived contributes importantly to the accomplishment of the purposes for which exemption was granted.

In Rev. Rul. 69-268, 1969-1 C.B. 160, a hospital operated a cafeteria and coffee shop that was open to persons visiting hospital patients. The operation of the eating facilities was held not unrelated trade or business within the meaning of section 513 of the Code. Visits by outsiders are regarded as a form of supportive therapy that assists in the recovery of patients. The hospital's permitting outside visitors to use its eating facilities enabled the visitors to spend more time with the patients and thus contributed importantly to the hospital's exempt purpose.

In the case at hand, the operation of the eating facilities

within the museum premises helps to attract visitors to the museum exhibits. Because there are places of refreshment in the museum visitors are able to devote a greater portion of their time and attention to the museum's collection, exhibits and other educational facilities than would be the case if they had to interrupt or terminate their tours of the museum to seek outside eating facilities at mealtime. The eating facilities also enhance the efficient operation of the entire museum by enabling the museum staff and employees to remain on its premises throughout the workday. Thus, the museum's operation of the eating facilities is a service that contributes importantly to the accomplishment of its exempt purposes.

Accordingly, the operation of the eating facilities by the museum under the particular circumstances is substantially related to the museum's exempt purposes and consequently is not unrelated trade or business within the meaning of section 513 of the Code.